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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO.       |
|---|-------------|----------------------|---------------------------|------------------------|
| 10/665,999  | 09/17/2003  | John R. Allen        | CAT004 US                 | 8962                   |
| 34036 7590 01/28/2008<br>Silicon Valley Patent Group LLP<br>18805 Cox Avenue<br>Suite 220<br>Saratoga, CA 95070 |             |                      | EXAMINER<br>NGO, CHUONG D |                        |
|   |             |                      | ART UNIT<br>2193          | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>01/28/2008   | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/665,999

Applicant(s)

ALLEN, JOHN R.

Examiner

Chuong D. Ngo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-30 and 40-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-43, 48 and 52-83 is/are allowed.
- 6) ☒ Claim(s) 44-47 and 49-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/21/07 &amp; 01/09/08</u>                                   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 44-47 and 49-51 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 44-47 and 49-51 are directed an invention that merely performs calculations and manipulations of data. In order for such a claimed invention that merely performs calculations and manipulations of data to be statutory, the claimed invention must accomplish a practical application, and is not directed to a preemption of a calculation and/or manipulation data . That is the claimed invention must transform an article or physical object to a different state or thing, or produce a useful, concrete and tangible result and not cover every substantial practical application . See State Street 47 USPQ2d, Benson 175 USPQ , and “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility”, OG Notices: 22 November 2005. It is clear from claims 44-47 and 49-51 that the claimed inventions merely involve in calculations and manipulations of data. They do not transform an article or physical object to a different state or thing. The input are numbers and the output are also number. The result produced by the invention as recited in the claims invention does not have real world values but merely a set of numbers without a practical application recited in the claims that makes the result useful, concrete and tangible. The recitation “to use said floating-point value and display a result of said use” in the claim 44 does not constitute a practical application of the

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invention that make the result useful, concrete and tangible. Therefore, claims 44-47 and 49-51 are directed to non-statutory subject matter as the claimed invention fails to accomplish a practical application. Further, since the claims appear to cover every substantial practical application, they are also directed to a preemption of the claimed manipulations and calculations of data.

3. Claims 2-43,48 and 52-83 are allowed.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong D. Ngo whose telephone number is (571) 272-3731. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Chuong D Ngo/  
Primary Examiner  
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01/16/2008